

Mr. Merlino is the Senate assistant legislative clerk, working on the legislative team of the Office of the Secretary of the Senate.

Mr. Merlino began his Senate career in 1994 as a Senate doorkeeper. He then joined the Secretary's legislative staff and has performed many of its functions, including the constitutional task—the constitutional task—of maintaining the Senate Journal.

Another of Mr. Merlino's main responsibilities is to call the roll during votes and quorum calls. More important, he is also one of those special workers on the dais who have been known at times to actually keep new Members, as they preside over the Senate, awake during long stretches in the chair.

He is always ready with a good sports quip and is known as a person who goes above and beyond the call of duty. As a matter of fact, I know it was his birthday yesterday and I have been planning this speech for some time and I wanted to make sure it coincided with that important date for him.

The Secretary of the Senate, Nancy Erickson, noted that in addition to his hard work and attention to detail—this is a quote—“It is his great sense of humor that helps many of us keep smiling, especially during the Senate's late [night] legislative sessions.”

A small cog in the greater legislative process, Mr. Merlino is a member of an often unrecognized but dedicated team that keeps the Senate running smoothly and one that is charged with ensuring continuity of operations no matter what the situation.

In fact, Mr. Merlino recently entered the history books. During a pro forma session held at the Postal Square Building immediately following the earthquake in August, Mr. Merlino, unknowingly, became one of only two people, along with Senator COONS, to have spoken during the only official session of the Senate convened outside the Capitol Building since 1814. The last time the Senate met outside the Capitol Building for such a session was when the British troops burned the Capitol during the War of 1812. So again, Mr. Merlino took his role in the history books of this great institution.

I hope my colleagues—and I know the Presiding Officer, again, by expelling me from the chair this morning—to allow me to make this statement—will join me in honoring Mr. Merlino, a fellow Virginian, for the excellent work he and the legislative team do each and every day and for their commitment to public service.

It is in that sense of Mr. Merlino's commitment to public service that I know the Presiding Officer joins me in this and that we get our work done today, so we can give this team—and the literally couple other million Federal workers across the country—the sense that we are not going to shut down the government, that they are going to be able to go into the holiday season with the recognition that the

government will continue operating, but, more important, that so many of us recognize the great work they do to keep this country moving forward.

With that, Mr. President, I yield the floor and again thank my good friend, Mr. Merlino, for his good work.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk (Mr. Merlino) proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Could I ask my friend to yield for a colloquy between the Republican leader and myself?

Mr. GRASSLEY. I will yield and ask unanimous consent that I reclaim the floor when the leader is done.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The majority leader.

GOOD PROGRESS

Mr. REID. Mr. President, Senator MCCONNELL and I have just finished a meeting. We are making good progress on being able to handle the issues that everyone knows are outstanding. We are not there yet, but we are very close.

There will be votes tomorrow. There could be votes this afternoon also. I would also say, because this is a question that people will ask, the House is going to pass their bill around 3 o'clock—that is the omnibus, around 3 o'clock. Time is not always exact. There is a ruling from this White House and its predecessors that if one House passes a spending bill, as we are doing here, and there is a presumption that it will pass in the other body, the time is extended for 24 hours. So everyone does not have the worry about the government closing tonight.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. Mr. President, let me echo the remarks of the majority leader. As he has indicated, the administration takes a view that if the final appropriations bills pass one House this afternoon—we could have that vote today or it could be tomorrow—but the administration, I am told by the majority leader, takes the view that it has passed one House, there would not be a government shutdown. So I think everybody should be reassured that that is not going to happen. The conference report has been signed and we are moving toward completing the basic work of government through next September 30 very shortly.

On the second issue, the majority leader and I are making significant progress in reaching an agreement on a package that will have bipartisan sup-

port, I hope. I think we are going to get to that place. And I share his view that good progress is being made.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

CHAPTER 12 BANKRUPTCIES

Mr. GRASSLEY. Mr. President, I wish to take a few minutes to discuss a case that was argued a few weeks ago before the Supreme Court, *Hall v. the United States*. This case involves a specific provision that I authored which is contained in the 2005 bankruptcy reform law. Throughout the litigation in this case, my statements supporting the provision—in other words, the statements that were said here on the floor of the Senate and in committee report were discussed in these cases at length.

I want to take a few minutes and walk through the history and intent of this provision so people hear it straight from this author's mouth, meaning from this Senator.

At its core, the case *Hall v. the United States* is about statutory interpretation. The statute at issue is 11 U.S.C. (a)(2)(A), which was a farm bankruptcy provision added to the Bankruptcy Code in 2005.

Before I get into the discussion about the case, I wish to explain what this particular provision does and why it needed to be added to the Bankruptcy Code. Congress enacted Chapter 12 of the Bankruptcy Code in 1986, which was subsequently made permanent in 2005. Chapter 12 allows family farmers to use a bankruptcy process to reorganize their finances and operations. It is a proven success as a leverage tool for farmers and their lenders. It helps a farmer and the banker sit down and work out alternatives for debt repayment. Not long after it became law in 1986, we began to hear about what worked and what did not work for farmers who were reorganizing in bankruptcy.

One problem we learned arose when a debtor farmer needed to sell assets in order to generate cash for reorganization. A farmer may need to sell portions of the farm to raise cash to fund a plan and pay off his creditors. However, in this situation, we are usually dealing with land that has been in the family's hands for a long time. This means the cost basis is probably very low. So once a farmer filed bankruptcy and then tried to sell a portion or all of the land, he would be hit with a substantial capital gains tax. This creates problems, because as originally drafted, Chapter 12 required full payment of all priority claims under Section 507 of the Bankruptcy Code. The only way to avoid this requirement was if the holder of the claim agreed that its claim could be treated differently.

Thus, when a farmer sold his land which resulted in large capital gains, the IRS would have a priority claim against the bankruptcy estate. I wish to take a moment to explain the concept of bankrupt estates, which may be